

**From:** Baresch, Virginia (HHS/OGA)  
**Sent:** 12 Mar 2018 20:45:47 +0000  
**To:** Stone, Lesley A  
**Subject:** (b)(5)

Hi Lesley

(b)(5)

Ginny Baresch, R.N., M.P.H.  
Senior Public Health Advisor  
Office of Global Affairs  
U.S. Department of Health & Human Services  
Email: [Virginia.Baresch@HHS.GOV](mailto:Virginia.Baresch@HHS.GOV) or [FSB7@CDC.GOV](mailto:FSB7@CDC.GOV)  
Office: 202-260-6339 Mobile: (b)(6)  
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Division of Global HIV & TB | Center for Global Health

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**From:** Wynne, Maggie (HHS/IOS)  
**Sent:** Monday, March 12, 2018 12:49 PM  
**To:** Petruccelli, Anthony J. (HHS/ASFR) <[Anthony.Petruccelli@hhs.gov](mailto:Anthony.Petruccelli@hhs.gov)>; Ghosh, Sudevi (CDC/OCOO/OGC) <[ggq4@cdc.gov](mailto:ggq4@cdc.gov)>  
**Cc:** Bowman, Matthew (HHS/OGC) <[Matthew.Bowman@hhs.gov](mailto:Matthew.Bowman@hhs.gov)>; Baresch, Virginia (HHS/OGA) <[Virginia.Baresch@hhs.gov](mailto:Virginia.Baresch@hhs.gov)>; Alexander, Thomas (OS/OGA) <[Thomas.Alexander@hhs.gov](mailto:Thomas.Alexander@hhs.gov)>; Daravi, Kamran (HHS/OS/OGA) <[Kamran.Daravi@hhs.gov](mailto:Kamran.Daravi@hhs.gov)>  
**Subject:** (b)(5)

Hi All,

(b)(5)

(b)(5)

Maggie

*Deliberative and pre-decisional communication*

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**From:** Petruccelli, Anthony J. (HHS/ASFR)  
**Sent:** Friday, February 23, 2018 4:22 PM  
**To:** Ghosh, Sudevi (CDC/OCOO/OGC)  
**Cc:** Bowman, Matthew (HHS/OGC); Baresch, Virginia (HHS/OGA); Wynne, Maggie (HHS/IOS); Alexander, Thomas (OS/OGA); Daravi, Kamran (HHS/OS/OGA)  
**Subject:** (b)(5)

Good Afternoon Sudevi,

Thank you for the opportunity to review (b)(5). The Division of Grants has reviewed the revised provision, and attached is a copy containing a few comments for consideration. Please let us know how we can be of any further assistance.

Kind Regards,

Anthony



**Anthony Petruccelli**  
Division of Grants | OGPOE  
w 202.260.4573 | m (b)(6)

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**From:** Ghosh, Sudevi (CDC/OCOO/OGC) [<mailto:ggq4@cdc.gov>]  
**Sent:** Friday, February 23, 2018 3:34 PM  
**To:** Baresch, Virginia (HHS/OGA); Wynne, Maggie (HHS/IOS); Petruccelli, Anthony J. (HHS/ASFR); Alexander, Thomas (OS/OGA); Daravi, Kamran (HHS/OS/OGA)  
**Cc:** Bowman, Matthew (HHS/OGC)  
**Subject:** (b)(5)

Hi All,

Thanks, Ginny for sending this to the group. Please let me know if there are any additional edits/comments/suggestions. Appreciate your review.

Sudevi

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**From:** Baresch, Virginia (HHS/OGA)

**Sent:** Thursday, February 22, 2018 4:39 PM

**To:** Wynne, Maggie (HHS/IOS) <[Margaret.Wynne@hhs.gov](mailto:Margaret.Wynne@hhs.gov)>; Petruccelli, Anthony J. (HHS/ASFR) <[Anthony.Petruccelli@hhs.gov](mailto:Anthony.Petruccelli@hhs.gov)>; Bowman, Matthew (HHS/OGC) <[Matthew.Bowman@hhs.gov](mailto:Matthew.Bowman@hhs.gov)>; Alexander, Thomas (OS/OGA) <[Thomas.Alexander@hhs.gov](mailto:Thomas.Alexander@hhs.gov)>; Daravi, Kamran (HHS/OS/OGA) <[Kamran.Daravi@hhs.gov](mailto:Kamran.Daravi@hhs.gov)>

**Cc:** Ghosh, Sudevi (CDC/OCOO/OGC) <[ggq4@cdc.gov](mailto:ggq4@cdc.gov)>

**Subject:** (b)(5)

PLGHA Team,

As discussed at our catch up meeting this afternoon I am passing along (b)(5)

(b)(5)

(b)(5)

(b)(5)

feedback tomorrow would be ideal. Great seeing you all and enjoy your weekend.

Ginny Baresch, R.N., M.P.H.  
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On: 21 February 2018 07:49, "Ghosh, Sudevi (CDC/OCOO/OGC)" <[ggq4@cdc.gov](mailto:ggq4@cdc.gov)> wrote:  
Good morning, Ginny. Hope you are well.

(b)(5)

Thanks,  
Sudevi

**Sudevi N. Ghosh**  
Senior Attorney

Office of the General Counsel  
Department of Health and Human Services  
CDC/ATSDR Branch  
(404) 639-7200 (main)  
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(b)(5)



# HHS IMPLEMENTATION OF PLGHA

HHS awarding agencies administer grants in accordance with HHS' Uniform Administrative Requirements, Cost Principles, and Audit Requirements found at 45 CFR Part 75. PLGHA applicability under HHS Awards: Foreign non-governmental organizations (NGOs) receiving HHS global health assistance either directly from HHS as a recipient, from a non-governmental pass-through entity, or as a subrecipient of a domestic or other foreign NGO. Global health assistance to national or local governments, public international organizations, and other similar multilateral entities is not subject to this policy. PLGHA compliance for new and existing HHS Awards: Standard PLGHA language will be published in all new global health assistance Notice of Funding Opportunities (NOFOs) Notices of Awards (NoAs) may either include the entire PLGHA Standard Provision, or include a statement in the NoA with a description of the PLGHA and its direct applicability to the funding award, and include a link to the Standard Provision.

# HHS IMPLEMENTATION OF PLGHA

- The PLGHA policy Standard Provision will have to be inserted into all new awards, including non-competing continuation, competitive renewal, and supplemental awards issued after May 15, 2017. Recipients and subrecipients signify their acceptance of all terms and conditions of the NoA the moment they first drawdown funds. Should a recipient or subrecipient not accept the terms and conditions of the PLGHA policy, their award will be terminated in accordance with the processes outlined in 45 CFR 75.371–.375.

# HHS IMPLEMENTATION OF PLGHA

HHS Points of Contact  
OGAPAs Division of Grants  
Jeffrey D. Johnson, Associate Deputy Assistant Secretary, Division of Grants  
Jeffrey.Johnson@hhs.gov  
Quadira Dantro, Director, Office of Grants Policy, Oversight, and Evaluation  
Quadira.Dantro@hhs.gov  
Anthony Petrucelli, Senior Policy Analyst, Office of Grants Policy, Oversight, and Evaluation  
Anthony.Petrucelli@hhs.gov

# CDC and Partner Compliance with PLGHA

- For new awards, PLGHA language will be published in every Notice of Funding Opportunity. For current awards, PLGHA language will be inserted into the Notice of Grant Award (NGA) for all applicable recipients. The first drawdown of funds signifies the recipients acceptance of all terms and conditions of the NGA. Should a recipient not accept the terms and conditions of the new policy, their award will be terminated. Project Officers and Activity Managers should review family planning statutory requirements and the PLGHA policy with partners after each NGA has been received.

# CDC Points of Contact

- Please reach out to your headquarter points of contact if you have questions. Technical Implementation Amy Medley  
igm8@cdc.gov Budget Valerie Naglich  
eo5@cdc.gov Management Sharmeen Premjee  
vsx8@cdc.gov

# **Health Resources and Services Administration (HRSA)**

- **Overarching Principle: Working in partnership with the US inter-Agency teams to ensure that all Foreign Assistance appropriated funds managed by HRSA are compliant with PLGHA Actions to date: Reviewed all HRSA international programs to identify those that may be potentially impacted by the policy – PEPFAR funded programs identified as a potential Audited existing PEPFAR programs to assess vulnerability Constituted a HRSA-wide Steering Committee to coordinate PLGHA issues**

# Health Resources and Services Administration (HRSA)

- **Immediate Next Steps:** Develop a comprehensive compliance plan for HRSA Include PLGHA language in all new PEPFAR funded Cooperative Agreements and amendments to existing agreements that receive new funds Adapt training materials provided by USAID and HHS to HRSA's program needs Train HRSA staff and PEPFAR implementing partners managed by HRSA Develop a compliance monitoring plan with scheduled timelines for reports Future Institute plans for managing violations and remedial actions



<b>From:</b>	Ellen Starbird <estarbird@usaid.gov>
<b>To:</b>	"Pollack, Margaret J" <pollackmj@state.gov>
<b>Subject:</b>	Fwd: Protecting Life and Global Assistance
<b>Date:</b>	Thu, 11 May 2017 18:30:28 -0400

Margaret - 2d of 2 messages to Steve Smith.

Thanks,

Ellen

Ellen H. Starbird  
 Director, Office of Population and Reproductive Health  
 Bureau for Global Health  
 USAID  
 phone: 571-551-7055  
 fax: 571-551-7083  
 email: [estarbird@usaid.gov](mailto:estarbird@usaid.gov)

----- Forwarded message -----

From: **Ellen Starbird** <[estarbird@usaid.gov](mailto:estarbird@usaid.gov)>  
 Date: Mon, May 1, 2017 at 2:03 PM  
 Subject: Re: Protecting Life and Global Assistance  
 To: "Smith, Steven (HHS/OS/OGA)" <[Steven.Smith@hhs.gov](mailto:Steven.Smith@hhs.gov)>  
 Cc: "[mamclaughlin@usaid.gov](mailto:mamclaughlin@usaid.gov)" <[mamclaughlin@usaid.gov](mailto:mamclaughlin@usaid.gov)>, "[kocheltree@usaid.gov](mailto:kocheltree@usaid.gov)" <[kocheltree@usaid.gov](mailto:kocheltree@usaid.gov)>, "Alexander, Thomas (OS/OGA)" <[Thomas.Alexander@hhs.gov](mailto:Thomas.Alexander@hhs.gov)>, "Burris, Hannah (HHS/OGA)" <[Hannah.Burris@hhs.gov](mailto:Hannah.Burris@hhs.gov)>, "Khajavi, Kamiar" <[kkhajavi@usaid.gov](mailto:kkhajavi@usaid.gov)>

Hi Steve - Here are some of the resources we use for informing people about the legislative and policy requirements that guide USAID's FP program and/or for undertaking compliance monitoring.

1) links::

- <https://www.usaid.gov/what-we-do/global-health/family-planning/usaid-family-planning-guiding-principles-and-us-0>
- <https://www.globalhealthlearning.org/course/us-abortion-and-fp-requirements-2017>

The first is part of the family planning section of USAID's external website. The second is the link to the Global Health Learning Center where the online abortion and FP requirements course can be found. Both of these have been updated to reference MCP. (For example, the current MCP clauses as they apply to family planning can be found at the external website link above).

2) Compliance plan template (attached)

3) Resource packet (attached) with links to key documents, including the "cheat sheet" of legislative and policy requirements as of FY15.

4) Checklist for monitoring service delivery sites (attached)



These resources (2-4) have NOT yet been updated to include MCP.

We hope to have updated draft training slides that we can share with you soon. We will also, of course, send you the final versions when we have them so you can adapt them to HHS's programs and needs.

Thanks,

Ellen

Ellen H. Starbird  
Director, Office of Population and Reproductive Health  
Bureau for Global Health  
USAID  
phone: 571-551-7055  
fax: 571-551-7083  
email: estarbird@usaid.gov

On Wed, Apr 26, 2017 at 5:18 PM, Smith, Steven (HHS/OS/OGA)  
<Steven.Smith@hhs.gov> wrote:

Thanks Ellen. We greatly appreciate your assistance as we all embark on this new policy.  
Kamiar, we will be in contact regarding questions.

Best, Steve

**From:** Ellen Starbird [mailto:estarbird@usaid.gov]  
**Sent:** Wednesday, April 26, 2017 5:16 PM  
**To:** Smith, Steven (HHS/OS/OGA)  
**Cc:** mamclaughlin@usaid.gov; kocheltree@usaid.gov; Alexander, Thomas (OS/OGA); Burris, Hannah (HHS/OGA); Khajavi, Kamiar  
**Subject:** Re: Protecting Life and Global Assistance

Hi Steve - I wanted to provide an interim response so that you didn't think you were being ignored. We are getting together some materials to share with you and hope to get them out tomorrow. They will be the versions of documents that we have historically used for family planning.

For the moment, please reach out to Kamiar Khajavi with implementation questions. Keep in mind that most of our Global Health Bureau will also be implementing this for the first time and we won't have all the answers.

Thanks,

Ellen

Ellen H. Starbird  
Director, Office of Population and Reproductive Health  
Bureau for Global Health

USAID  
phone: 571-551-7055

fax: 571-551-7083

email: estarbird@usaid.gov

On Mon, Apr 24, 2017 at 3:47 PM, Smith, Steven (HHS/OS/OGA)  
<Steven.Smith@hhs.gov> wrote:

Ellen/Mary/Kim:

Thank you very much for the useful session today regarding USAID compliance activities and tools. These lessons learned will be invaluable for the interagency as we move forward with implementation of the Presidential Memorandum.

Can you please forward electronic copies of or links to the various materials discussed today? For material that may need to be updated to reflect the expansion (such as training slides, the e-learning course, the USAID "cheat sheet", and standard checklists) it would be great to be able to review the current versions even while there may be updates in progress.

I would also expect that our HHS colleagues will have questions. Can you let us know who might be the best USAID POC as we move forward with implementation?

Best,

Steve

**Steven Smith**

Deputy Assistant Secretary (Acting)

Office of Global Affairs

U.S. Department of Health and Human Services

200 Independence Ave. SW, 639H

Washington, DC 20201

[Steven.Smith@hhs.gov](mailto:Steven.Smith@hhs.gov)

202-690-6174

<b>Sender:</b>	Ellen Starbird <estarbird@usaid.gov>
<b>Recipient:</b>	"Pollack, Margaret J <pollackmj@state.gov>"

**Monitoring Compliance with Family Planning Legal and Policy Requirements**  
**Checklist for Monitoring Service Delivery Sites**  
**Introduction**

**Purpose and Intended Users:** The purpose of this checklist is to review USAID-supported family planning activities (specifically, service delivery sites) for compliance with the family planning requirements. This is not meant to be used as a comprehensive or formal survey, but rather to give an initial overview of subjects related to compliance. The checklist can be modified based on local context and needs, and should not be considered an exhaustive tool. The checklist is intended to be used by USAID Mission PHN staff when visiting project sites that manage and/or implement family planning service delivery (e.g., field offices, clinics).

**Content:** Section A contains a list of topics that should be discussed, while Section B is based on a review of documents. Each section is further divided according to the statutes/policies, and only the requirements that apply should be reviewed in a particular visit. Section C contains questions that should be discussed with family planning clients. Please note that these are only “starter” questions. Further probing questions should be asked as appropriate, and particularly when a problem may be indicated. Any results/comments and follow-up actions should be noted in the spaces provided. Section D asks the reviewer to draw initial conclusions about the information gained during the visit by answering a series of specific questions, to determine whether there are vulnerabilities for non-compliance.

**Preparation:** The reviewer should determine which requirements apply prior to the field visit. The reviewer is also expected to have a good understanding of the requirements in order to be able to interpret the information that is received and to spot any potential red flags.

**Applicable requirements** (circle those that apply):

- a. Tiahrt, DeConcini, Livingston (apply to funds for family planning activities)
- b. Policy Determination 3 (applies where USAID provides direct support for VS services)
- c. Helms, Biden, Siljander (apply to all foreign assistance funds)

Name of USAID reviewer: \_\_\_\_\_ Title/position: \_\_\_\_\_

Location: \_\_\_\_\_ Name of project/clinic: \_\_\_\_\_

Names of key staff: \_\_\_\_\_ Date: \_\_\_\_\_

**Monitoring Compliance with Family Planning Legal and Policy Requirements**  
**Checklist for Monitoring Service Delivery Sites**

**A. Discussion:**

√	Topic	Comments	Follow-up (timing, responsible)
	<b>1. Tiahrt, DeConcini, Livingston</b>		
	a) What family planning methods are offered to clients here? For which methods are clients referred elsewhere?		
	b) How are clinic staff and field/referral agents compensated for their work?		
	c) How is staff/clinic performance evaluated?		
	d) What methods does the facility use to try to increase the number of family planning users?		
	e) How are decisions made about what method a client will use?		
	f) Does the clinic have any programs that are available only to FP users? (such as infant feeding, maternal health benefits, general welfare)		
	<b>2. Policy Determination 3</b>		
	g) What information is given to clients interested		

**Monitoring Compliance with Family Planning Legal and Policy Requirements**  
**Checklist for Monitoring Service Delivery Sites**

√	Topic	Comments	Follow-up (timing, responsible)
	in VS?		
	h) IF VS IS PROVIDED HERE: Do VS clients receive any type of compensation? If so, how much and for what? (for travel, medicine, lost wages, etc.)		
	i) IF VS IS PROVIDED HERE: Are referral agents or service providers paid on a per-case basis related to VS? If so, how much and for what?		
	<b>3. Biden, Siljander</b>		
	j) Is the clinic/organization involved in any biomedical research or lobbying activities related to abortion?		

Number/categories of staff interviewed: \_\_\_\_\_

**Monitoring Compliance with Family Planning Legal and Policy Requirements**  
**Checklist for Monitoring Service Delivery Sites**

**B. Document Review:**

√	Topic	Results/Comments	Follow-up (timing, responsible)
	<b>1. Tiahart, DeConcini, Livingston</b>		
	a) Contraceptive methods wall chart (if available, note where posted)		
	b) Other IEC materials on FP methods (note whether clients can take with them)		
	c) Service records/statistics (3-6 months) and referral records <ul style="list-style-type: none"> <li>• look for sharp increases that might indicate more emphasis on increasing # users</li> <li>• look for reference to targets (discuss how used)</li> </ul>		
	<b>2. Policy Determination 3</b>		
	d) IF VS IS PROVIDED HERE: review informed consent forms; ask about process for getting signature (prior to procedure); for how long are forms retained?		
	e) If available, review records on staff compensation, looking for bonus/referral payments		
	<b>3. Helms</b>		
	f) Look for reference to abortion/MR as part of service package (e.g., list of fees, service schedule) – Recognizing that USAID funds cannot be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortion		
	g) Is there equipment present that might be used to perform abortions? (Note whether facility provides PAC)		

**C. Family Planning Clients:**

Draft January 2009

**Monitoring Compliance with Family Planning Legal and Policy Requirements**  
**Checklist for Monitoring Service Delivery Sites**

√	Topic	Results/Comments	Follow-up (timing, responsible)
	a) Client feedback on the quality of FP services.		
	b) How was the decision made about which method to use?		
	c) Knowledge of potential side effects/risks.		
	d) Did s/he feel any pressure to use FP, or to use a particular method?		
	e) Was client offered anything (by anyone) in exchange for using FP or using a particular method? (e.g., money, food, gift, access to a program)		
	f) Have you ever heard of abortions being performed at this facility?		

Number of clients interviewed: \_\_\_\_\_



**Monitoring Compliance with Family Planning Legal and Policy Requirements**  
**Checklist for Monitoring Service Delivery Sites**

**C. Conclusions / Summary**

These questions should be answered by the reviewer based on all of the information gathered during the site visit. They should not be posed directly to any respondent. If an answer other than the “compliant” answer is marked, follow-up on that issue is required.

Q#	Question (and “compliant” answer)	Response	Evidence
<b>Tiahrt, DeConcini, Livingston</b>			
1.	Is there an acceptable range of contraceptive methods offered (direct or through referral)? (Y)	Yes No	
2.	Are individual service providers or referral agents subject to numerical goals, such as numbers of births or family planning users? (N)	Yes No	
3.	Are incentives/financial rewards given to providers in exchange for meeting FP targets? (N)	Yes No	
4.	Are incentives/ financial rewards given to clients in exchange for accepting family planning? (N)	Yes No	
5.	Are any benefits connected to the acceptance of family planning? (N)	Yes No	
6.	Is adequate comprehensible information on the method chosen provided through counseling? (Y)	Yes No	
7.	Is the variety/quantity/quality of FP IEC materials acceptable? (Y)	Yes No	
8.	Is there any evidence of coercion in the family planning program? (N)	Yes No	
<b>Policy Determination 3</b>			
9.	Is information given to clients on benefits and risks of VS sufficient for informed consent? (Y)	Yes No	
10.	Are VS informed consent forms being used properly? (Y)	Yes No	
11.	Are incentives given to VS clients (recompense that would not be considered reasonable)? (N)	Yes No	
12.	Are referral agents or service providers given incentives that might induce them to refer for/provide VS over other methods? (N)	Yes No	
<b>Helms, Biden, Siljander</b>			
13.	Is abortion performed at this facility? <sup>1</sup>	Yes No	
14.	Is the clinic/organization involved in biomedical research or lobbying related to abortion? (N)	Yes No	

<sup>1</sup>It must be determined that no USAID funds are being used to pay for abortion services to ensure compliance with the Helms Amendment.

## **FAMILY PLANNING COMPLIANCE PLAN TEMPLATE**

The principles of voluntarism and informed choice are central to USAID's family planning (FP) program. These principles are reaffirmed in the legislative and policy requirements that guide U.S. assistance. In addition, U.S. assistance cannot be used to promote or provide abortion as a method of family planning. The Agency is committed to ensuring that people in developing countries have access to voluntary family planning services and that they are free to make informed decisions about their reproductive lives. USAID takes the family planning requirements very seriously and works with Missions and partners to help ensure compliance in their programs.

### **I. INTRODUCTION TO THE TEMPLATE**

USAID encourages Missions to develop a compliance plan within their family planning program that defines activities, responsibilities, timing, documentation and response procedures. This document is a general template that Missions can use to assist in developing their own specific plans. The purpose is to provide an illustrative outline, suggestions, and examples of elements that may be included in compliance plans. Mission staff will need to determine the specific pieces that are applicable to their particular country/situation. As part of the plan, Missions should consider the role of implementing partners in compliance. The general template can be utilized to create a plan that will help ensure compliance with U.S. statutes and policies.

### **II. KEY CONCEPTS FOR A FAMILY PLANNING COMPLIANCE PLAN**

There are three key concepts to consider when developing a family planning compliance plan. Ideally the plan will be:

#### **1) Comprehensive**

- All requirements that are applicable to a program should be addressed, not just one or two.
- All relevant actors in the program should be included, such as cooperating agencies, government counterparts, project staff, and peripheral service providers as well as USAID staff.

#### **2) Systematic**

- Activities should be carried out on a regular basis, not just at project start-up or if a problem is suspected.
- Monitoring, in particular, should include enough people and cover enough geographic areas to be considered reasonably representative. This is not meant to imply that large samples or sophisticated analyses are required.

#### **3) Integrated**

- Compliance-related activities should be integrated into overall project activities to the extent possible. Many compliance issues fit well with other topics that may already be included under quality of care or management performance. Integration with existing technical and monitoring activities is also more efficient.

### **III. SUGGESTED COMPONENTS OF A FAMILY PLANNING COMPLIANCE PLAN**

#### **A. *Mission Background/Introduction***

The initial section of the plan should include brief background on the Mission's family planning program. Within the introduction, the Mission could consider including:

- Brief description of the general Mission health portfolio
- A list or brief description of FP projects/activities
- Comments on the country context (including the position of the host government on these issues)
- Reasons for creating and implementing a family planning compliance plan
- How often the family planning compliance plan will be reviewed/updated (annually, semi-annually, etc)

#### **B. *Applicability of the Family Planning Requirements***

Every USAID family planning program requires country-specific approaches to ensure compliance with all the current U.S. statutes and policies for family planning assistance. (See attached chart of statutory and policy requirements). This section of the plan should present the Mission's understanding of how the various family planning requirements apply to the Mission country program. This should also include a brief explanation of what requirements are not applicable and reasons why they do not apply. Determining applicability requires that the PHN team analyze family planning activities and related requirement. The Mission should seek the assistance of the Regional Legal Advisor (RLA) in preparing this section.

A few specific questions<sup>1</sup> to consider in determining applicability include:

- Does the Mission provide contraceptive commodities for local distribution? Where? (Tiahrt)
- Does the Mission support family planning service delivery activities? (Tiahrt)
- Are foreign NGOs (i.e. non-U.S.) implementing partners on FP activities?
- Does the Mission directly support voluntary sterilization? (Policy Determination 3)

Note that an analysis of applicability is different from an analysis of vulnerabilities. For example, the Siljander Amendment is straightforward in its application because it applies to all foreign assistance funds. However, vulnerabilities may appear beyond family planning programs, such as where USAID funds are provided to a local civil society organization for democracy and governance activities. Under the Siljander Amendment, such an organization could not use the US funds to lobby for or against abortion.

#### **C. *Actions to Ensure Compliance***

There are two primary ways to address family planning compliance in USAID programs – prevention and monitoring - and both should be included in a Mission's plan.

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<sup>1</sup> Note: This is not an exhaustive list

### **Preventive actions**

Preventive actions are important in reducing the risk of violations. In designing preventive actions, Missions should consider factors that might present an increased vulnerability for violations. For example, Is abortion legal or widely available? Is there a history of coercion? Do local governments have significant autonomy? (see "Issues to Consider" checklist, attached, for other potential areas of vulnerability.) These can then be addressed through information dissemination, training, or other activities.

Examples of preventive actions that a Mission might include in its plan are:

- Training USAID staff involved in FP programming
- Training implementing partners and other key stakeholders. Cascade training may be helpful where applicable.
- Discussing U.S. requirements with government counterparts<sup>2</sup>
- Reviewing implementation instruments for inclusion of appropriate clauses
- Developing and disseminating contraceptive methods wall charts (available at [www.infoforhealth.org/pubs/ect/wallchart/index.shtml](http://www.infoforhealth.org/pubs/ect/wallchart/index.shtml)) or other IEC materials
- Reviewing technical/training materials produced with Mission support (these may provide opportunities to refer to the requirements or general principles)

*Note: The USAID family planning compliance team has training resources available that Missions can adapt for local use (including a presentation, quiz, case studies, and reference documents). There is also an e-learning course on the family planning requirements accessible to the public at [www.globalhealthlearning.org](http://www.globalhealthlearning.org).*

### **Monitoring actions**

Along with preventive actions, attentive monitoring is an important aspect of compliance and a method of support for family planning programs, partners, and host governments. Monitoring for family planning compliance should be integrated into current monitoring strategies as much as possible in order to maximize efficiency. It is helpful to have checklists/discussion guides to use during partner meetings and site visits to make sure that key topics are covered and that there is consistency among staff in how compliance issues are discussed.

Examples of monitoring actions that a Mission might include in its plan are:

- Develop/adapt monitoring tools
- Develop a monitoring plan that specifies who, when, where, etc.
- Discuss with partners their compliance monitoring activities
- Guidance on documenting monitoring results and follow-up actions

*Note: The USAID compliance team has some monitoring resources available that Missions can adapt for local use (including checklists for Missions to use with implementing partners and at service delivery sites).*

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<sup>2</sup> When discussing the requirements with government counterparts or local health staff, it is not generally necessary that they know the requirements by name nor all of the details that they contain. Rather, Missions may wish to focus on the principles and highlight, if relevant, how these reinforce local policies related to FP.

#### **D. Documentation**

Documentation of compliance activities is essential. Missions should maintain a compliance file with records of compliance related activities and results. Documentation should be readily accessible and updated as actions are taken. This helps to demonstrate that Missions have taken reasonable efforts to ensure compliance and will be particularly important in the event of an audit.

Examples of documents to keep in the file include:

- Training sign-in sheets
- Training materials (marked with location and date used)
- Certificates of E-Learning completion
- Training pre- and post-tests (optional)
- Completed checklists, interview discussion guides
- Monitoring/trip reports
- Reports from partners on their compliance activities
- Important correspondence
- Notes from meetings where compliance is discussed
- Copies of official texts and guidance documents for U.S. statutory and policy requirements

#### **E. Response Procedures**

The Mission family planning compliance plan should also include procedures to be followed when a significant vulnerability or potential violation is discovered. The procedures should detail the process for reporting and investigating potential non-compliance issues. The following notifications should be included in a procedure responding to a possible violation:

- Inform project A/COTR and Mission leadership, the RLA, and the USAID/W compliance team of the situation
- If a violation is suspected, there must be an investigation
- If a violation of the Tiahrt Amendment is confirmed, the USAID Administrator must report this to Congress

Mission response procedures might address the following points:

- Designate a point person at the Mission
- Define lines of communication
- Propose timing for informing the next level
- Proposed timing/steps for conducting an investigation

#### **F. Annex: Supporting Documents**

The Annex should include supporting documents that are necessary for implementation of the plan. Examples of supporting documents include:

- Contact list in USAID/W and RLA office in case of questions/concerns (*attached*)
- List of U.S. FP Statutory and Policy Requirements (*attached*)
- Issues to Consider in Reviewing Compliance with FP Requirements (*attached*)
- Monitoring tools (interview guides, site visit checklists)
- Roles and Responsibilities Brief

- Detailed monitoring plan

## **USAID Contact Persons for FP/HIV Requirements**

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**USAID Family Planning Requirements – STATUTORY**

Last Updated January 5, 2010

<b>Provision</b>	<b>Applies To</b>	<b>Statutory Text from Foreign Assistance Act and/or Appropriations Act for FY 2010</b>
Helms (1973) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions. <sup>(6)(7)</sup>
Leahy (1994) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	For purposes of this or any other Act authorizing or appropriating funds for the Department of State, foreign operations, and related programs, the term “motivate”, as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options. <sup>(7)(8)</sup>
Biden (1981) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. <sup>(6)(7)</sup>
Siljander (1981) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available under this Act may be used to lobby for or against abortion. <sup>(7)</sup>
Kemp-Kasten (1985) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available in this Act nor any unobligated balances from prior appropriations Acts may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization. Any determination made under the previous proviso must be made no later than 6 months after the date of enactment of this Act, and must be accompanied by the evidence and criteria utilized to make the determination. <sup>(7)</sup>
DeConcini (1985) <sup>(1)</sup>	FP assistance <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	In order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services. <sup>(7)</sup>
Livingston-Obey (1986) <sup>(1)</sup>	FP assistance <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	In awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant’s religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the [DeConcini Amendment]. <sup>(7)</sup>
Tiahrt (1998) <sup>(1)</sup>	FP assistance <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	Any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual’s decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the USAID Administrator determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency. <sup>(7)</sup>
Additional Provisions (1977) <sup>(1)</sup> (1986) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. <sup>(6)(7)</sup>  None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate [the Helms Amendment, the Biden Amendment, or the provision above listed as the first “Additional Provision”]. <sup>(7)</sup>

<sup>(1)</sup> Indicates the date the amendment or policy was first enacted. Unless otherwise stated, the amendment or policy remains in effect.<sup>(2)</sup> Applies to all funds appropriated for any purpose under the FY10 Foreign Operations Appropriations Act.<sup>(3)</sup> Applies only to family planning assistance (from any account) appropriated under the FY10 Foreign Operations Appropriations Act.<sup>(4)</sup> Applies to all entities (e.g., U.S. non-governmental organizations (NGOs), foreign non-governmental organizations (FNGOs), public international organizations (PIOs), and foreign governments).<sup>(5)</sup> Applies to all instruments (e.g., grants, cooperative agreements, contracts, and SOAGs (or other similar bilateral agreements)).<sup>(6)</sup> Text from Section 104(f) of the Foreign Assistance Act of 1961, as amended<sup>(7)</sup> Text from FY 2010 Foreign Operations Appropriations Act, Title III, “Bilateral Economic Assistance—Global Health and Child Survival” and/or Title VI, Section 7018.<sup>(8)</sup> The term “motivate” refers to language in the Helms Amendment.



## USAID FAMILY PLANNING REQUIREMENTS – POLICY

Last Updated January 5, 2010

Provision	Applies To	USAID Policies
USAID Policy on Voluntarism and Informed Choice	FP assistance <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	USAID places highest priority on ensuring that its family planning (FP) and reproductive health activities adhere to the principles of voluntarism and informed choice. The Agency considers an individual's decision to use a specific FP method or to use any FP method at all voluntary if based upon the exercise of free choice and not obtained by any special inducements or any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation. USAID defines informed choice to include effective access to information on FP choices and to the counseling, services, and supplies needed to help individuals choose to obtain or decline services and the option to see, obtain, or follow up on a referral or simply to consider the matter further.
PD-3 (1977) <sup>(1)</sup>	FP assistance <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	<p>In 1982, USAID issued a policy paper on population assistance, which clearly states its commitment to voluntarism in the provision of family planning (FP) services. Annex PD-3 of the Population Policy of 1982 includes specific requirements for USAID-supported programs that include voluntary sterilization. These requirements cover informed consent, ready access to other methods, and guidelines on incentive payments.</p> <p>PD-3 requires that informed consent be obtained in writing from every VS acceptor. Informed consent is defined as voluntary, knowing consent after being advised of the surgical procedures, the attendant discomforts and risks, the expected benefits, the availability of alternative FP options, the purpose and irreversibility of the operation, and the option to withdraw consent prior to the operation. Voluntary consent is defined as consent based upon free choice and not obtained by any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation. PD-3 further requires that potential VS acceptors have ready access to a range of FP methods whenever VS services are offered.</p> <p>PD-3 prohibits the payment of incentives to potential VS acceptors, providers, and referral agents, but permits compensation of reasonable expenses in order to make VS as equally available as other contraceptive methods.</p> <p>More detailed information on PD-3 can be found at: <a href="http://www.usaid.gov/our_work/global_health/pop/populat.pdf">http://www.usaid.gov/our_work/global_health/pop/populat.pdf</a>.</p>

(1) Indicates the date the amendment or policy was first enacted. Unless otherwise stated, the amendment or policy remains in effect.

(2) Applies to all funds appropriated for any purpose under the FY10 Foreign Operations Appropriations Act.

(3) Applies only to family planning assistance (from any account) appropriated under the FY10 Foreign Operations Appropriations Act.

(4) Applies to all entities (e.g., U.S. non-governmental organizations (NGOs), foreign non-governmental organizations (FNGOs), public international organizations (PIOs), and foreign governments).

(5) Applies to all instruments (e.g., grants, cooperative agreements, contracts, and SOAGs (or other similar bilateral agreements)).

(6) Text from Section 104(f) of the Foreign Assistance Act of 1961, as amended.

(7) Text from FY 2010 Foreign Operations Appropriations Act, Title III, "Bilateral Economic Assistance—Global Health and Child Survival" and/or Title VI, Section 7018.

(8) The term "motivate" refers to language in the Helms Amendment.

## Issues to Consider in Reviewing Compliance with FP Requirements

**Introduction:** The purpose of this checklist is to help USAID staff begin reviewing their programs for compliance with U.S. FP statutory and policy requirements. It poses a series of questions that may be useful when thinking about the context and content of programs, along with notes on why each issue is important or details that need to be considered. A “yes” response to any of the questions may indicate an area of vulnerability for the program; that is, conditions may be present that could lead to a violation of one or more of the statutory and policy requirements. Missions should be aware of these conditions and take action to reduce vulnerabilities and monitor closely for compliance. This list is meant to serve as a starting point for review of a program, but is in no way exhaustive.

### Host-country Laws and Policies

- a. Is abortion or menstrual regulation legal or widely available? Is it part of the government’s essential package of services?
  - The Helms Amendment prohibits the use of U.S. foreign assistance to pay for abortion as a method of family planning, or to motivate or coerce any person to practice abortions.
  - If USAID is funding an entity (government, NGO, etc.) that also provides legal abortion services, ensure that those services are separated from any USAID-funded activity.
- b. Are there efforts change the status or availability of abortion?
  - The Siljander Amendment prohibits the use of U.S. foreign assistance to lobby for or against abortion.
  - The subject of abortion can arise in a variety of contexts (e.g., advocacy activities, technical working group meetings, etc.).
  - Communicate clearly with colleagues (including non-health staff) and partners about this requirement and its applicability to USAID-supported activities.
  - This requirement does not restrict what partners do with funds from non-USG sources.
- c. Is there a history of targets or coercion in FP programs?
  - Even if the policy has changed, the practice may still continue in some areas.
- d. Are clients reimbursed/compensated for costs associated with voluntary sterilization?
  - No incentive payments should be paid to doctors, service providers, referral agents, or clients.
  - Refer to the USAID Program Guidance for Voluntary Sterilization ([http://www.usaid.gov/sites/default/files/documents/1864/pd3\\_annex.pdf](http://www.usaid.gov/sites/default/files/documents/1864/pd3_annex.pdf)) for more information about payments associated with voluntary sterilization.
- e. Does the host-country government have a performance-based financing program that includes health?
  - Consider how the Tiahrt Amendment applies to government facilities, and how the performance-based financing program applies to USAID-supported family planning service delivery projects.

- f. Are there efforts at the national government level to reduce fertility rates or increase family planning use, or is there a particular emphasis on certain methods of family planning?
  - Consider how these efforts may impact voluntarism.
    - USAID-supported family planning service delivery projects are required to provide access to a broad range of methods, either directly or through referral. Consider how the government's policies impact USAID-supported projects.
- g. Does the national government have a family planning and HIV/AIDS integration policy? If yes, does the policy include explicit language that supports the principles of voluntarism and informed choice? Has the policy been rolled-out to service delivery sites?
  - A national FP/HIV policy that clearly articulates the principles of voluntarism and informed choice can help ensure a voluntary service delivery setting for those impacted by and infected with HIV and AIDS.
    - Consider how USAID funds, including PEPFAR funds, can be used to support a FP/HIV policy environment, including training health providers on best practices on FP/HIV integration.

## **II. Implementing Partners**

- a. Have there been changes in implementing partners or their staff?
  - New partners/staff should become familiar with the requirements.
    - Local staff may not have had as much exposure to these issues as American staff.
    - Encourage implementing partner staff to take the "Abortion and FP Requirements" e-learning course available at [globalhealthlearning.org](http://globalhealthlearning.org), and look for other opportunities to familiarize them with the requirements.
- b. Does the partner have a monitoring plan?
  - It is best practice to have a compliance monitoring plan. Examples, templates, etc. can be found on the Intranet.  
(<http://ghintranet.usaid.gov/ghnet/Pages/GHOffices/PRH/LegislativePolicy/Index.aspx>)
- c. Are there partner organizations include NGOs working in democracy and governance?
  - Partners may be affected if their USAID-funded activities include advocacy related to influencing the policy process, constitutional reform, or legislation. They should be aware of the restriction on using U.S. foreign assistance funds to lobby for or against abortion.
- d. Does your organization identify as a faith-based organization?
  - USAID may only finance programs that have a secular purpose and that do not have the primary effect of advancing or inhibiting religion.
  - Religious activities must be voluntary and separated in time or place from USAID-financed activities.

## **III. Program**

- a. Is the NGO/partner directly supporting FP service delivery (e.g., clinics)?

- Compliance with the Tiahrt and DeConcini Amendments should be monitored at all levels of the health system that are receiving support, including individual facility staff.
- b. Is post-abortion care (PAC) part of the program?
  - USAID-funded PAC supplies, equipment, commodities, etc. should be clearly labeled as for PAC only.
  - It is USAID's policy not to fund the purchase of manual vacuum aspiration (MVA) equipment.
  - Provision of information or counseling, consistent with local law, about all pregnancy options is permitted.
- c. Does the NGO/partner's program have a social marketing component for family planning?
  - The Tiahrt Amendment's restrictions on targets and incentives apply at the retail level.
  - Refer to the Tiahrt Amendment guidance regarding sales targets and commissions in social marketing programs.  
(<http://www.usaid.gov/sites/default/files/documents/1864/tiahtqa.pdf>)
- d. Does the service package include permanent methods?
  - Programs must be voluntary and follow the requirements of the Tiahrt Amendment, the DeConcini Amendment, and PD-3.
- e. Does the program include support to community level workers?
  - Consider appropriate ways to train the community level workers on the statutory and policy requirements, and how their work will be monitored for compliance.
- f. Does the program include support to networks or associations?
  - Consider the extent to which a "parent" organization has influence over its most peripheral members, and at what levels the requirements apply.
- g. Is support provided for training activities or curriculum development?
  - Consider how Tiahrt applies to service providers who benefit from the training.
  - Refer to the Tiahrt Amendment guidance regarding training.  
(<http://www.usaid.gov/sites/default/files/documents/1864/tiahtqa.pdf>)
- h. Does program include production of IEC materials on FP as part of a service delivery project?
  - The materials must comply with the comprehensible information provision of the Tiahrt Amendment. See the Comprehensible Information guidance for more information.  
(<http://www.usaid.gov/sites/default/files/documents/1864/tiajim3b.pdf>)
- i. Does the program include performance-based financing (PBF) components?
  - If the program is part of a FP service delivery project, consider how the Tiahrt Amendment prohibitions on targets and incentives apply. Design the performance-based aspects to respect voluntarism and informed choice.
- j. Does the program include distribution of contraceptive commodities to the national government?

- If so, government officials should be aware of the requirements' applicability and their monitoring responsibilities.
- k. Does the program work with religious leaders or organizations?
  - Check with your RLO about any religious references in USAID-funded materials (e.g. IEC, BCC, curricula) to ensure that they are in compliance with the applicable requirements.
- l. Does the program receive multiple types of funding (e.g., FP funds, PEPFAR funds, MCH funds, etc.)?
  - Consider which requirements apply to all foreign assistance funding, FP activities only, or HIV/AIDS activities only.
  - Consider how to ensure compliance with the FP requirements in HIV/AIDS and/or MCH programs.
  - Check with your RLO about inclusion of voluntary population planning activities clauses in agreements or contracts, and consider appropriate inclusion of clauses in sub-agreements.
- m. Does the program provide information about condoms?
  - Information provided about condoms must be medically accurate and must include the public health benefits and failure rates of use.
- n. Does the program include HIV/AIDS activities for key populations, such as sex workers and people who inject drugs?
  - Funds cannot be used to advocate for the legalization or practice of prostitution or sex trafficking.
  - The program can include HIV/AIDS care, treatment, and necessary pharmaceutical and commodities to these individuals.
  - Be familiar with OGAC's current policy related to PEPFAR funds being used for needle exchange program.
- o. Does the program have any components or activities that involve military or law enforcement personnel?
  - Consider the restrictions related to support for military, police, and prison personnel.
  - Refer to the Global Health Programs Account Guidance (<http://www.usaid.gov/sites/default/files/documents/1864/200mab.pdf>) for guidance on including these populations in infectious disease programs.



**RESOURCE PACKET**  
**USAID Family Planning, Abortion and HIV/AIDS**  
**Statutory and Policy Requirements**

**Introduction:** The purpose of this document is to assist USAID implementing partners in thinking about ways to assure that their USAID-supported activities are in compliance with USAID's Family Planning, Abortion and HIV/AIDS statutory and policy requirements. It should be considered as a resource when reviewing compliance issues, but it is not a systematic guide and is in no way exhaustive. The document includes the following sections:

- **USAID Contact Persons for FP, Abortion and HIV/AIDS Requirements:** This list provides names and contact information of individuals and offices to whom partners and Missions may direct requests for information or assistance regarding USAID FP, abortion and HIV/AIDS statutory and policy requirements. Partners are also encouraged to contact their AOR or Activity Manager with questions.
- **USAID Family Planning and Abortion Statutory and Policy Requirements:** The first page of this chart provides the statutory text of provisions from the Foreign Assistance Act and the Consolidated Appropriations Act for FY 2014 for family planning activities, as well as brief descriptions of key USAID policies. The second page provides the statutory text of provisions from the Foreign Assistance Act and the Consolidated Appropriations Act for FY2014 that pertain to abortion and involuntary sterilization.
- **USAID HIV/AIDS Requirements:** This chart provides the statutory text of provisions from the Foreign Assistance Act and the Consolidated Appropriations Act for FY 2015 for HIV/AIDS activities.
- **Key Documents Related to FP/HIV Requirements:** This list provides names and links to key FP and HIV legislative, policy, and guidance documents.

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**USAID Contact Persons for FP, Abortion and HIV/AIDS Requirements**

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Diana Weed (HIV/AIDS matters): [dweed@usaid.gov](mailto:dweed@usaid.gov)

## Key Documents Related to FP/HIV Requirements

This list provides names and links to key FP and HIV/AIDS legislative, policy, and guidance documents.

**I. Guidance on the Definition and Use of the Global Health Programs Account—Revised 07/10/2013:** <http://www.usaid.gov/sites/default/files/documents/1864/200mab.pdf>

**II. General Family Planning Statutory and Policy Requirements:**

For a comprehensive list of family planning requirements, or for translations in Spanish, French, and other languages, go to the USAID Office of Population and Reproductive Health Website (<http://www.usaid.gov/what-we-do/global-health/family-planning/usaid-family-planning-guiding-principles-and-us-0>) or see the USAID Family Planning Policies Chart (above). Specific documents are listed below.

**III. Voluntarism/ Informed Choice:** <http://www.usaid.gov/what-we-do/global-health/family-planning/voluntarism-and-informed-choice>

- a) Excerpts from HR 4328 “Omnibus Appropriations for FY 1999”, including the Tiahrt Amendment: [http://pdf.usaid.gov/pdf\\_docs/pdabt964.pdf](http://pdf.usaid.gov/pdf_docs/pdabt964.pdf)
- b) Guidance for Implementing the Tiahrt Requirements for Voluntary Family Planning Projects: <http://www.usaid.gov/sites/default/files/documents/1864/tiahtqa.pdf>
- c) Technical Guidance on the “Comprehensible Information” Paragraph of the Tiahrt Amendment: <http://www.usaid.gov/sites/default/files/documents/1864/tiajim3b.pdf>
- d) “Do You Know Your Family Planning Methods?” Wall Chart: <http://www.fphandbook.org/wall-chart>
- e) USAID Policy Paper on Population Assistance, September 1982: <http://www.usaid.gov/sites/default/files/documents/1864/populat.pdf>
- f) Policy Determination 3 (PD-3) and Addendum: USAID Policy Guidelines on Voluntary Sterilization (Annex to the USAID Policy Paper on Population Assistance): [http://www.usaid.gov/sites/default/files/documents/1864/pd3\\_annex.pdf](http://www.usaid.gov/sites/default/files/documents/1864/pd3_annex.pdf)

**IV. Abortion:** <http://www.usaid.gov/what-we-do/global-health/family-planning/usaid-family-planning-guiding-principles-and-us>

Includes information on the Helms, Leahy, Siljander and Biden Amendments, as well as information on the rescission of the Mexico City Policy.

**V. HIV/AIDS**

- a) OGAC/PEPFAR General Guidance for specific HIV/AIDS areas, including FP/HIV: <http://www.pepfar.gov/reports/guidance/index.htm>
- b) AAPD 12-04: Implementation of the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003, as amended: <http://www.usaid.gov/work-usaid/aapds-cibs/aapd-14-04-w>
- c) Condom Fact Sheet: <http://www.usaid.gov/sites/default/files/documents/1864/condom-fact-sheet-January-2015.pdf>
- d) PEPFAR’s Best Practices for Voluntary Medical Male Circumcision Site Operations: [http://www.usaid.gov/sites/default/files/documents/1864/pepfar\\_best\\_practice\\_for\\_vmmc\\_site\\_operations.pdf](http://www.usaid.gov/sites/default/files/documents/1864/pepfar_best_practice_for_vmmc_site_operations.pdf)



**USAID**  
FROM THE AMERICAN PEOPLE

## VOLUNTARISM AND INFORMED CHOICE REQUIREMENTS FOR FAMILY PLANNING ACTIVITIES

Last Updated November 17, 2014

Provision	Applies To	STATUTORY TEXT
DeConcini (1985) <sup>(1)</sup>	FP activities <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	In order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services. <sup>(6)</sup>
Livingston-Obey (1986) <sup>(1)</sup>	FP activities <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	In awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the [DeConcini Amendment]. <sup>(6)</sup>
Tiahrt (1998) <sup>(1)</sup>	FP activities <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	Any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the USAID Administrator determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency. <sup>(6)</sup>

Provision	Applies To	USAID POLICIES
USAID Policy on Voluntarism and Informed Choice (1965) <sup>(1)</sup>	FP activities <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	USAID places highest priority on ensuring that its family planning (FP) and reproductive health activities adhere to the principles of voluntarism and informed choice. The Agency considers an individual's decision to use a specific FP method or to use any FP method at all voluntary if based upon the exercise of free choice and not obtained by any special inducements or any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation. USAID defines informed choice to include effective access to information on FP choices and to the counseling, services, and supplies needed to help individuals choose to obtain or decline services and the option to see, obtain, or follow up on a referral or simply to consider the matter further.
PD-3 (1977) <sup>(1)</sup>	FP activities <sup>(3)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	<p>In 1982, USAID issued a policy paper on population assistance, which clearly states its commitment to voluntarism in the provision of family planning (FP) services. Annex PD-3 of the Population Policy of 1982 includes specific requirements for USAID-supported programs that include voluntary sterilization. These requirements cover informed consent, ready access to other methods, and guidelines on incentive payments.</p> <p>PD-3 requires that informed consent be obtained in writing from every VS acceptor. Informed consent is defined as voluntary, knowing consent after being advised of the surgical procedures, the attendant discomforts and risks, the expected benefits, the availability of alternative FP options, the purpose and irreversibility of the operation, and the option to withdraw consent prior to the operation. Voluntary consent is defined as consent based upon free choice and not obtained by any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation. PD-3 further requires that potential VS acceptors have ready access to a range of FP methods whenever VS services are offered. PD-3 prohibits the payment of incentives to potential VS acceptors, providers, and referral agents, but permits compensation of reasonable expenses in order to make VS as equally available as other contraceptive methods.</p> <p>More detailed information on PD-3 can be found at: <a href="http://www.usaid.gov/what-we-do/global-health/family-planning/voluntarism-and-informed-choice">http://www.usaid.gov/what-we-do/global-health/family-planning/voluntarism-and-informed-choice</a>.</p>

<sup>(1)</sup> Indicates the date the amendment or policy was first enacted. Unless otherwise stated, the provision or policy remains in effect.

<sup>(2)</sup> Applies to all funds appropriated for any purpose under the FY2014 Foreign Operations Appropriations Act.

<sup>(3)</sup> Applies only to family planning activities funded (from any account) under the FY2014 Foreign Operations Appropriations Act.

<sup>(4)</sup> Applies to all entities (e.g., U.S. non-governmental organizations (NGOs), foreign non-governmental organizations (FNGOs), public international organizations (PIOs), and foreign governments).

<sup>(5)</sup> Applies to all instruments (e.g., grants, cooperative agreements, contracts, and SOAGs (or other similar bilateral agreements)).

<sup>(6)</sup> Text from the FY2014 Foreign Operations Appropriations Act, Title III, "Bilateral Economic Assistance – Global Health Programs," and/or Title VII, Section 7018.





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## ABORTION AND INVOLUNTARY STERILIZATION RESTRICTIONS

Last Updated November 17, 2014

Provision	Applies To	STATUTORY TEXT
Helms (1973) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions. <sup>(6)(7)</sup>
Leahy (1994) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	For purposes of this or any other Act authorizing or appropriating funds for the Department of State, foreign operations, and related programs, the term “motivate”, as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options. <sup>(6)(8)</sup>
Biden (1981) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. <sup>(6)(7)</sup>
Siljander (1981) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available under this Act may be used to lobby for or against abortion. <sup>(6)</sup>
Kemp-Kasten (1985) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available in this Act nor any unobligated balances from prior appropriations Acts may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization. Any determination made under the previous proviso must be made no later than 6 months after the date of enactment of this Act, and must be accompanied by the evidence and criteria utilized to make the determination. <sup>(6)</sup>
Additional Provisions (1977) <sup>(1)</sup>  (1986) <sup>(1)</sup>	All assistance <sup>(2)</sup> All entities <sup>(4)</sup> All instruments <sup>(5)</sup>	None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. <sup>(6)(7)</sup>  None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate [the Helms Amendment, the Biden Amendment, or the provision above listed as the first “Additional Provision”]. <sup>(6)</sup>

<sup>(1)</sup> Indicates the date the amendment or policy was first enacted. Unless otherwise stated, the provision or policy remains in effect.

<sup>(2)</sup> Applies to all funds appropriated for any purpose under the FY2014 Foreign Operations Appropriations Act.

<sup>(3)</sup> Applies only to family planning activities funded (from any account) under the FY2014 Foreign Operations Appropriations Act.

<sup>(4)</sup> Applies to all entities (e.g., U.S. non-governmental organizations (NGOs), foreign non-governmental organizations (FNGOs), public international organizations (PIOs), and foreign governments).

<sup>(5)</sup> Applies to all instruments (e.g., grants, cooperative agreements, contracts, and SOAGs (or other similar bilateral agreements)).

<sup>(6)</sup> Text from the FY2014 Foreign Operations Appropriations Act, Title III, “Bilateral Economic Assistance – Global Health Programs,” and/or Title VII, Section 7018.

<sup>(7)</sup> Text from the Foreign Assistance Act of 1961, as amended, Section 104(f).

<sup>(8)</sup> The term “motivate” refers to language in the Helms Amendment.



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## HIV/AIDS REQUIREMENTS

Last Updated January 27, 2015

Provision	Applies To	STATUTORY TEXT
Medically Accurate Information on Condoms	HIV/AIDS activities <sup>(1)</sup> All entities <sup>(2)</sup>	Information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by the [Foreign Operations Appropriations Act] shall be medically accurate and shall include the public health benefits and failure rates of such use. <sup>(4)</sup>  NOTE: Medically Accurate Information is information that is consistent with USAID's Condom Fact Sheet: <a href="http://www.usaid.gov/what-we-do/global-health/hiv-and-aids/technical-areas/addressing-condom-supply-and-demand-pepfar">http://www.usaid.gov/what-we-do/global-health/hiv-and-aids/technical-areas/addressing-condom-supply-and-demand-pepfar</a> .
Conscience Clause (Leadership Act Section 301(d))	HIV/AIDS activities <sup>(1)</sup> All entities <sup>(2)</sup>	An organization, including a faith based organization, that is otherwise eligible to receive assistance ... for HIV/AIDS prevention, treatment, or care— 1. shall not be required, as a condition of receiving such assistance— (A) to endorse or utilize a multisectoral or comprehensive approach to combating HIV/AIDS; or (B) to endorse, utilize, make a referral to, become integrated with, or otherwise participate in any program or activity to which the organization has a religious or moral objection; and 2. shall not be discriminated against in the solicitation or issuance of grants, contracts, or cooperative agreements ... for refusing to meet any requirement described in paragraph (1). <sup>(5)</sup>
Use of Funds (Leadership Act Section 301(e))	HIV/AIDS activities <sup>(1)</sup> All entities <sup>(2)</sup>	No funds made available to carry out [HIV/AIDS activities] may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and when proven effective, microbicides. <sup>(5)</sup>
Prostitution Policy (Leadership Act Section 301(f))	HIV/AIDS activities <sup>(1)</sup> FNGOs and limited PIOs <sup>(3)</sup>	No funds made available to carry out [HIV/AIDS activities] may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking. <sup>(5)</sup>  NOTE: AAPD 14-04 makes clear that this requirement does not apply to U.S. organizations. It also contains a limited exemption for contractors and subcontractors who are providing commercial items or services and where such activities do not involve any HIV/AIDS programmatic activities per se.
Needle and Syringe Exchange Programs	HIV/AIDS activities <sup>(1)</sup> All entities <sup>(2)</sup>	Historically, PEPFAR programs have not supported needle (syringe) exchange programs. During some fiscal years, Congress has expressed support for the use of PEPFAR funds for needle exchange programs; in other years (e.g., FY2012), Congress has explicitly prohibited using PEPFAR funds for that purpose. As a matter of policy, OGAC has never approved the use of PEPFAR funds for these types of programs.  If you are considering using PEPFAR funds to support any activities related to needle exchange programs, seek current guidance on the use of funds.

<sup>(1)</sup> Applies to any funds for HIV/AIDS activities.

<sup>(2)</sup> Applies to all entities (e.g., U.S. non-governmental organizations (NGOs), foreign NGOs (FNGOs), public international organizations (PIOs), and foreign governments).

<sup>(3)</sup> Applies to FNGOs and non-exempted PIOs. By statute, this requirement does not apply to (a) the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria, (b) the World Health Organization (including its regional offices: PHO, SEARO, AFRO, EMRO, EURO and WPRO), (c) the International AIDS Vaccine Initiative, (d) any United Nations agency, (e) any foreign governments, or (f) any U.S. government agencies. Furthermore, please see the "NOTE" in the chart regarding the limited contractor exemption and U.S. organizations.

<sup>(4)</sup> Text from the Foreign Operations Appropriations Acts. See, e.g., Consolidated and Further Appropriations Act of 2015, Division J—Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015, Title III – Bilateral Economic Assistance, Global Health Programs.

<sup>(5)</sup> Text from the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, Pub.L. No. 108-25 (2003), as amended.